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Department of Regulatory Agencies

Public Utilities Commission

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March 20, 2013

FILED VIA ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street S.W., Room TW-B204
Washington, D.C. 20554

NOTICE OF EX PARTE COMMUNICATION

**Re: *Ex Parte* Filing, WC Docket No. 11-42; WC Docket No. 03-109;
 CC Docket No. 96-45; WC Docket No. 12-23**

Dear Ms. Dortch:

On Monday March 18, 2013 John Scott and Susan Travis, Staff of the Colorado Public Utilities Commission (CoPUC) and David Nocera, CoPUC counsel, participated in a teleconference with Jonathan Lechter and Kimberly Scardino of the Wireline Competition Bureau. We discussed several aspects of the CoPUC's March 18, 2013 Petition for Waiver Extension filed in the above dockets.

Staff explained that since 1990, the CoPUC, in conjunction with the Colorado Department of Human Services (DHS), has administered coordinated federal and state low-income telephone assistance programs in Colorado. The parameters and eligibility requirements of both the federal and state programs are contained in state statute, specifically §40-3.4-101, C.R.S., *et seq.* Until recently amended, 47 C.F.R. §54.409(a) specified that consumer eligibility for federal Lifeline support in Colorado was to be

1560 Broadway, Suite 250, Denver, Colorado 80202
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determined utilizing the criteria established by the state for state eligibility. Thus, the Colorado legislature enacted §40-3.4-105 which prescribes the eligibility requirements for both federal and state support under Colorado's coordinated Low Income Telephone Assistance Program (LITAP).

Even if one assumes that no state law changes are needed to adopt the federal uniform eligibility criteria in Colorado, Staff explained its position that the public interest is not best served by requiring Colorado and Colorado providers to establish and administer two separate eligibility programs for some interim period. This is particularly true given that the state Telephone Assistance Program for low-income individuals is in the process of being repealed. If the current waiver is not extended and expires on April 1, 2013, then indeed, Colorado providers will have to establish and administer this separate federal eligibility program beginning April 1, 2013 and continuing until the state law repeal takes effect. The burden on providers such as CenturyLink of Colorado, which currently administers a coordinated state and federal program, to establish this dual regime is significant and in some ways impractical. For example, providers such as CenturyLink would likely need to modify their billing and other systems to accommodate the change, and would likely have to add staff, conduct training, update manuals and protocols and otherwise expend additional resources. In addition, Staff explained its concern that this dual regime would create customer confusion.

Staff explained that it believes granting the waiver extension until July 1, 2013 strikes the appropriate balance between benefiting customers and avoiding harm to providers. Staff believes the costs and burdens on providers outweigh the benefits to customers. Staff also explained that it reasonably expects the state program to be repealed, and well in advance of July 1, 2013. On the effective date of the repeal, the FCC waiver would become inapplicable and Colorado would immediately become a FCC Lifeline default state. If this were to occur on, for example, May 1, 2013,¹ Staff believes it would have been unfortunate that providers were required to expend significant resources establishing and administering the dual programs for this short period of time. In conclusion, Staff explained that it believes the COPUC's request for waiver extension should be granted given the current state of affairs.

¹ Staff believes it is reasonably likely that the repeal will take effect sooner than May 1, 2013 and in any event, no later than June 8, 2013.

This letter is being filed electronically. Please contact me if you have questions or concerns on this matter.

Respectfully,

/s/ David M Nocera
Senior Assistant Attorney General
Counsel for the
Public Utilities Commission

cc (via e-mail): Jonathan Lechter
Kimberly Scardino